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NOTIFICATION.

The award of the Industrial Tribunal, Ernakulam in respect of the dispute between the management of the Anamallais Timber Trust Ltd., Chalakudy and their workman Vadakkan Ouseph Chakku, regarding the stoppage of work and closing down of the Mills, Anamallais Timber Trust Ltd., is hereby published, as required under Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947).

By order of His Highness the Raj Pramukh

V. K. VELAYUDHAN,
Secretary to Government.

Government Secretariat,
Development Department,
Labour Section,
Trivandrum, 27th July 1950.

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IN THE INDUSTRIAL TRIBUNAL ERNAKULAM.

Present: SRI C. SANKARA MENON, B. A., B. L.,
Sole Member.

ADJUDICATION No. 5 OF 1950.

In the matter of the stoppage of work and closing down of the Mills, Anamallais Timber Trust Ltd., Chalakudy.

Vadakkan Ouseph Chakku, Employee of the Anamallais Timber Trust Ltd., Chalakudy.	Complainant.
The Anamallais Timber Trust Ltd. Chalakudy, Employers.	Respondent.

AWARD.

The above said complainant has filed a complaint before this Tribunal on 24-6-1950 stating that the respondent company suddenly stopped work in the mills and locked out the employees of the mills from 23-6-1950 without notice and without the permission of this Tribunal when the adjudication proceedings in reference I of 1950 were pending before this Tribunal and praying that the employers in question may be ordered to open the mills and start work and that they may be ordered to pay the employees their wages for the period during which the work was stopped.

The respondent concern while admitting the stoppage of work contends that the mills were closed after previous notice, that they were forced to stop the work due to causes beyond their control that they had no timber to carry on the work, that they were asked by the Government to stop the milling, that they were not in any way liable to pay anything to the employees, that they were not aware of the amendments to the Industrial Dispute Act and that amendments made by the Central Government cannot affect the State Act, Act XVI of 1950 in view of the provisions of section 251 of the Constitution of India.

The contention put forward by the respondents are unsound and cannot be an answer to the complaint in question when the closure of the mill is an admitted fact.

Reference I of of 1950 was an adjudication pending before this Tribunal in respect of an industrial dispute between the employers and emlyoyees of the Anamallais Timber Trust, Ltd., Chalakudy and it was pending, I may state, when the mills were closed on 23-6-50. I may also state, and it was admitted, that no previous

written permission of this Tribunal has been obtained by the employers when the working of the mill was stopped from 23-6-'50. Under section 33 of the Industrial Dispute Act as amended by the Central Government as provided for in Section 34 of Act No. XLVIII of 1950 the stoppage of work must be said to be illegal. I shall now proceed to consider the contentions raised by the company before entering into the merits of the petition.

The 2nd and last contentions are on the very face of them unsustainable. Ignorance of law is no excuse for the breach of any provision of law. The last but one ground urged by the respondent therefore fails. The amendments to the Indian Industrial Disputes Act were passed by the Central Government on 20th May 1950 and published in the Gazette Extraordinary of India on 23rd May 1950 and they were published in the State Gazette of 13th June 1950. The lock out complained of was notified in the evening of 22nd June 1950 and work was actually stopped from the next day. Lock out was thus effected after amendments to the Industrial Dispute Act came into force. The Central Government has made the amendment of the Act applicable to the whole of India except the State of Jammu and Kashmir, under Section 246 (2) of the Indian Constitution, the Indian Parliament and the State Legislatures of A & B States can pass laws regarding subjects mentioned in the "concurrent list" list III of the 7th schedule to the constitution. Item 22 of list III of the 7th schedule is "Trade Unions and Industrial and Labour Disputes". It is therefore clear that the Indian Parliament and State Legislatures have concurrent powers to legislate upon Industrial and Labour disputes. Both legislatures have legislated upon Industrial disputes, the Central Government Legislation being Act XIV of 1947 and the State law being Act XVI of 1950. Section 33 of both of the above acts was the same and it was recently amended by the Central Government and the amendments were extended to the whole of India except the State of Jammu and Kashmir. It is therefore clear that the Central Government intended the amendments to have force in this State also. Section 33 of Act XVI of 1950 of this State must therefore be deemed to have been amended in accordance with the amendments made by the Central Government. The respondent contends that in virtue of section 251 of the Indian Constitution the amendments need not be looked into and cannot have any force in this state since there is nothing in our law repugnant to the amendments passed by the Central Government. I find myself unable to agree with the respondent in this contention. The question before us is not whether our Act has anything repugnant to the Indian Act but whether the amendments made by the Central Legislature to a particular section of the Central Act, which is the same as the corresponding section of our Act can have force here irrespective of repugnancy or sufficiency. Section 251 of the constitution of India deals with laws passed by the Central Legislature as regards matters specified in the State list,

List No. II of the 7th Schedule, on grounds of national interest and on the ground of proclamations of emergency. The relevant section of the Constitution of India in matters like the one in question is section 254 (2). The proviso to that section runs thus. "Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State". In view of this proviso it is clear that the amendments are applicable to the State and have force here as if they have been enacted by the Legislature of this State. The last contention of the respondent company also thus fails. It is true that a notice was put on the notice board of the company on the 22nd evening regarding the closure of the mills from the next day. It is not known under what provision of law the notice was put up. Even if the notice had been put up under section 19 of the company's standing orders it was necessary for the company to have taken the permission of this Tribunal in view of section 33 of the Industrial Dispute Act as amended by the Central Government. The putting up of this notice cannot therefore relieve the company of the illegality of its action. It is contended that the company was forced to stop work on account of causes beyond its control, namely, dearth of timber to carry on work and the orders of Government to stop the mills. The company can close the mills temporarily for reasons beyond their control under section 19 of its standing orders They have at the same time certain liabilities to perform. The first is the taking of a previous written permission from this Court. Secondly the company must pay its employees half a day's wages for every day of stoppage of work up to 7 days. This they have not done. The order of the Government produced before me is not an order by the Government but a direction from the Divisional Forest Officer to stop milling. The reason for that order is not clear from the order nor has it been explained by the company. This order will not cure the defect under section 33 of the Industrial Dispute Act. Even if it had been an order promulgated by Government the stoppage of work being an industrial matter the company ought to have done what it ought to do under Industrial Dispute Act. The Government order would have been sufficient cause for the company to request for the permission of this Court to stop work. This contention of the company is also therefore untenable. The contentions raised by the company as answers to the complaint put forward by the complainant do not therefore make the action of the company legal.

The stoppage of work suddenly from the 23rd morning would amount to a lock out under the Industrial Dispute Act which defines lock out as "the closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him". Here the place of employment had been closed and the work in the mills suspended from

23-6-1950. The action of the company therefore amounts to a lock out as defined above. Section 23 of the Act prohibits lock-outs of employees during the pendency of proceedings before a tribunal and for 6 weeks after the conclusion of such proceedings. I have already stated that Adjudication proceedings in reference I of 1950 were pending when the work was stopped by the company. The lock out was therefore illegal. Section 19 of the Company's Standing Orders allows the company to temporarily stop work for causes beyond its control. In the notice put up by the company the reason for stoppage of work is not given. Secondly there is no offer in the notice to the employees to take the wages provided in Section 19. As already stated the previous permission of this Tribunal has also not been taken by the company in stopping the work. I therefore find that the action of the company in having stopped the work suddenly from 23-6-1950 is an illegal lock out and that the company is liable to open the mills and resume work without any further delay. Whether the company should be taken to task for the illegality in question under Section 31 of Act XVI of 1950 I leave to Government to decide. Under the law the company is liable to be proceeded against under that section also.

The company cannot take shelter under Section 19 of its Standing orders and escape liability by now offering to pay half a day's wages provided for in that section. Since the action is illegal the employees are entitled to get the full wages for the days on which the work was stopped.

Awarded accordingly.

C. SANKARA MENON,
Sole Member.
INDUSTRIAL TRIBUNAL.